

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL NO. 1059 OF 1998

IN

SPECIAL CIVIL APPLICATION NO. 6783 OF 1997

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

and

Hon'ble MR.JUSTICE KUNDAN SINGH

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

SANJAY BHANUBHAI DAVE

Versus

SURAT MAHANAGARPALIKA

Appearance:

MR AM RAVAL for Appellant No.

MR PRASHANT G DESAI for Respondent No. 1

MR LR PUJARI AGP for Respondent No. 2

CORAM : MR.JUSTICE J.N.BHATT

and

MR.JUSTICE KUNDAN SINGH

Date of decision: 29/07/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

1. The appellant - original petitioner has challenged the judgment of the learned Single Judge passed, on 1-8-1998, in Special Civil Application No. 6783 of 1997 by invocation of the provisions of Clause 15 of the Letters Patent.

2. The appellant - original petitioner challenged the order of termination passed against him by filing the above writ petition under Article 226 of the Constitution of India contending that termination was illegal and contrary to the provisions of Article 311 of the Constitution of India and without holding any inquiry. The appellant also filed one writ petition wherein the appellant was directed to make a representation.

3. Since the writ petition of the appellant was decided against him by the respondent authority, he again filed writ petition which came to be decided along with other matters by the common judgment on 1-8-1998 against the original petitioner and hence this appeal.

4. It may be noticed at this stage that on account of unfortunate outbreak of pneumonic plague in city of Surat, Surat Municipal Corporation obtained appropriate sanctioned from the State Government and he had taken special measures and had called upon all the employees of the Municipal Corporation to report for duties in view of the very emergent and special situation which was generated on account of deadly and dangerous disease. He had also given warning that the defaulters shall be punished even by dismissal from the service. Despite such notice and warning some of the employees did not respond because of which the Municipal Commissioner was left with no alternative but to pass harsh orders against the defaulters, errant and irresponsible employees. The petitioner was also defaulter and therefore he was dismissed from the service who was working as a Sanatory Sub-Inspector in Surat Municipal Corporation at the relevant time and whose services in such unprecedented emergency created on account of pneumonic plague was not only expedient but incumbent and essential to which he remained indifferent. His plea of himself suffering from malaria was considered by the Standing Committee as post-decisional hearing pursuant to the directions of this Court not acceptable as supporting Medical Certificate from one Dr. M.B. Patel of Ahmedabad. As the original petitioner had ran away from Surat on account of outbreak of pneumonic plague neglecting his duties. The Standing Committee found that had he been

really sick he would have obtained treatment at Surat but in order to avoid special and likely apprehension or fear of affect of numeric plague he had left Surat though he was working as a Sanitary Sub-Inspector and whose services were imperative to the affected persons in Surat City, the learned Single Judge has, therefore, rightly found that the dismissal of the appellant from service is justified. We also found from the record that there is no case for our interference. We are also satisfied that the impugned judgment of the learned Single Judge dismissing the petition is justified. This Court in an elaborate decision dated 30-4-2002 in L.P.A. No.1045 of 1998 and other matters of Division Bench one of us was a party to the decision, had an occasion to deal with the similar cases and in our opinion the said decision is fully attracted and the present appeal is fully covered by the said decision. We are, therefore, deemed to be expedient to divert our meticulous, articulation by making deeper probe. In the result, this appeal is without any substance and deserves to be rejected. Accordingly, it is rejected. There shall no be order as to costs in the circumstances of the case.

(J.N. Bhatt, J.)

(Kundan Singh, J.)

/JVSatwara/